

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 282
96TH GENERAL ASSEMBLY

Reported from the Committee on Veterans' Affairs, Emerging Issues, Pensions and Urban Affairs, April 27, 2011, with recommendation that the Senate Committee Substitute do pass.

1055S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 70.710, 70.720, 70.730, 105.915, and 105.927, RSMo, and to enact in lieu thereof six new sections relating to public employee retirement.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 70.710, 70.720, 70.730, 105.915, and 105.927, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 70.710, 70.720, 70.730, 104.603, 105.915, and 105.927, to read as follows:

70.710. 1. The "Employer Accumulation Fund" is hereby created. It is the fund in which shall be accumulated the contributions made by employers for benefits, and from which shall be made transfers, as provided in sections 70.600 to 70.755.

2. When paid to the system, the employer contributions provided for in subsections 2 and 3 of section 70.730 shall be credited to the employer accumulation fund account of the employer making the contributions.

3. When an allowance other than a disability allowance **or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** first becomes due and payable, there shall be transferred to the benefit reserve fund from his employer's account in the employer accumulation fund the difference between the reserve for the allowance and the accumulated contributions standing to his credit in the members deposit fund at the time the allowance first becomes due and payable, of the member or former member to whom or on whose behalf the allowance is payable.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 4. A separate account shall be maintained in the employer accumulation
19 fund for each employer. No employer shall be responsible for the employer
20 accumulation fund liabilities of another employer.

21 5. When a disability allowance **or an allowance that results from a**
22 **member's death that was the natural and proximate result of a personal**
23 **injury or disease arising out of and in the course of his or her actual**
24 **performance of duty as an employee** first becomes due and payable, the
25 accrued service pension reserve covering the retiring member shall be calculated
26 in the manner provided for in subsection 3 of section 70.730, as of the effective
27 date of the disability allowance. Such reserve shall be transferred to the benefit
28 reserve fund from the employer's account in the employer accumulation fund.

70.720. 1. The "Casualty Reserve Fund" is hereby created. It is the fund
2 in which shall be accumulated the contributions made by employers for pensions
3 **either** to be paid members who retire on account of disability **or that result**
4 **from a member's death that was the natural and proximate result of a**
5 **personal injury or disease arising out of and in the course of his or her**
6 **actual performance of duty as an employee**, and from which shall be made
7 transfers as provided in sections 70.600 to 70.755.

8 2. When paid to the system, the employer contributions provided for in
9 subsection 4 of section 70.730 shall be credited to the casualty reserve fund.

10 3. When a disability allowance **or an allowance that results from a**
11 **member's death that was the natural and proximate result of a personal**
12 **injury or disease arising out of and in the course of his or her actual**
13 **performance of duty as an employee** first becomes due and payable, there
14 shall be transferred to the benefit reserve fund from the casualty reserve fund an
15 amount equal to the reserve for the allowance, minus:

16 (1) The accumulated contributions, standing to the member's credit in the
17 members deposit fund at the time the allowance first becomes due and payable;
18 and

19 (2) The accrued service pension reserve determined pursuant to subsection
20 5 of section 70.710.

70.730. 1. Each employer's contributions to the system shall be the total
2 of the contribution amounts provided for in subsections 2 through 5 of this
3 section; provided, that such contributions shall be subject to the provisions of
4 subsection 6 of this section.

5 2. An employer's normal cost contributions shall be determined as follows:

6 Using the financial assumptions adopted by the board from time to time, the
7 actuary shall annually compute the rate of contributions which, if paid annually
8 by each employer during the total service of its members, will be sufficient to
9 provide the pension reserves required at the time of their retirements to cover the
10 pensions to which they might be entitled or which might be payable on their
11 behalf. The board shall annually certify to the governing body of each employer
12 the amount of membership service contribution so determined, and each employer
13 shall pay such amount to the system during the employer's next fiscal year which
14 begins six months or more after the date of such board certification. Such
15 payments shall be made in such manner and form and in such frequency and
16 shall be accompanied by such supporting data as the board shall from time to
17 time determine. When received, such payments shall be credited to the
18 employer's account in the employer accumulation fund.

19 3. An employer's accrued service contributions shall be determined as
20 follows: Using the financial assumptions adopted by the board from time to time,
21 the actuary shall annually compute for each employer the portions of pension
22 reserves for pensions which will not be provided by future normal cost
23 contributions. The accrued service pension reserves so determined for each
24 employer less the employer's applicable balance in the employer accumulation
25 fund shall be amortized over a period of years, as determined by the board. Such
26 period of years shall not extend beyond the latest of (1) forty years from the date
27 the political subdivision became an employer, or (2) thirty years from the date the
28 employer last elected to increase its optional benefit program, or (3) fifteen years
29 from the date of the annual actuarial computation. The board shall annually
30 certify to the governing body of each employer the amount of accrued service
31 contribution so determined for the employer, and each employer shall pay such
32 amount to the system during the employer's next fiscal year which begins six
33 months or more after the date of such board certification. Such payments shall
34 be made in such manner and form and in such frequency and shall be
35 accompanied by such supporting data as the board shall from time to time
36 determine. When received, such payments shall be credited to the employer's
37 account in the employer accumulation fund.

38 4. The employer's contributions for the portions of disability pensions **or**
39 **pensions that result from a member's death that was the natural and**
40 **proximate result of a personal injury or disease arising out of and in**
41 **the course of his or her actual performance of duty as an employee not**

42 covered by accrued service pension reserves shall be determined on a one-year
43 term basis. The board may determine different rates of contributions for
44 employers having policeman members or having fireman members or having
45 neither policeman members nor fireman members. The board shall annually
46 certify to the governing body of each employer the amount of contribution so
47 ascertained for the employer, and each employer shall pay such amount to the
48 system during the employer's next fiscal year which begins six months or more
49 after the date of such board certification. Such payments shall be made in such
50 manner and form and in such frequency and shall be accompanied by such
51 supporting data as the board shall from time to time ascertain. When received,
52 such payments shall be credited to the casualty reserve fund.

53 5. Each employer shall provide its share, as determined by the board, of
54 the administrative expenses of the system and shall pay **the** same to the system
55 to be credited to the income-expense fund.

56 6. The employer's total contribution to the system, expressed as a percent
57 of active member compensations, in any employer fiscal year, beginning with the
58 second fiscal year that the political subdivision is an employer, shall not exceed
59 its total contributions for the immediately preceding fiscal year, expressed as a
60 percent of active member compensations, by more than one percent.

**104.603. 1. Effective with transfers of service between the
2 Missouri department of transportation and highway patrol employees'
3 retirement system and the Missouri state employees' retirement system
4 that occur on or after September 1, 2011, upon a reciprocal transfer of
5 creditable or credited service pursuant to section 104.602 or subsection
6 8 of section 104.1021, the sending system from which the service is
7 transferred shall pay the receiving system to which the service is
8 transferred the present value of the accrued benefit as determined
9 pursuant to subsection 2 of this section.**

10 **2. For purposes of this section, the present value of the accrued
11 benefit shall be determined using the actuarial assumptions of the
12 sending system used in that system's last regular valuation assuming
13 active member status and using the unit credit actuarial cost
14 method. However, in no event shall the payment amount be less than
15 the sum of the member's accumulated contributions and interest plus
16 any purchased service payments from the member held on deposit by
17 the sending system. If the member had received a refund of**

18 accumulated contributions from the sending system and forfeited
19 service credit with that system, the member would need to reestablish
20 that service with the sending system by again becoming an active
21 member of a system covered by this chapter and satisfying
22 requirements otherwise stipulated for reestablishing service credit.

23 3. The service transfer shall not be deemed completed until the
24 sending system makes payment to the receiving system as prescribed
25 in this section. Payments shall be made within ninety days of the date
26 that a completed transfer request is submitted by a member.

27 4. When the transfer payment includes an amount identified as
28 corresponding to a member's accumulated contributions, the
29 accumulated contributions portion shall be identified, and further, the
30 accumulated contributions balance as of the preceding July first shall
31 be identified and the receiving system shall be responsible for crediting
32 interest according to the terms of the receiving plan.

33 5. The systems shall coordinate their plan administration for
34 reciprocal transfers to give full effect to the transfer including the
35 transfer and acceptance of corresponding division of benefit orders.

36 6. The member or survivor obtaining a reciprocal transfer of
37 service covered by this section shall satisfy all requirements under
38 section 104.602 or subsection 8 of section 104.1021 to obtain a transfer
39 of credited or creditable service and shall satisfy the requirements
40 under section 104.1091 with the receiving system to reestablish
41 forfeited service previously accrued at either system.

105.915. 1. The board of trustees of the Missouri state employees'
2 retirement system shall administer the deferred compensation fund for the
3 employees of the state of Missouri that was previously administered by the
4 deferred compensation commission, as established in section 105.910, prior to
5 August 28, 2007. The board shall be vested with the same powers that it has
6 under chapter 104 to enable it and its officers, employees, and agents to
7 administer the fund under sections 105.900 to 105.927. Two of the commissioners
8 serving on the deferred compensation commission immediately prior to the
9 transfer made to the board under section 105.910 shall serve as ex officio
10 members of the board solely to participate in the duties of administering the
11 deferred compensation fund. One such commissioner serving as an ex officio
12 board member shall be a member of the house of representatives selected by the
13 speaker of the house of representatives, and such commissioner's service on the

14 board shall cease on December 31, 2009. The other commissioner serving as an
15 ex officio board member shall be the chairman of the deferred compensation
16 commission immediately prior to the transfer made to the board under section
17 105.910, and such commissioner's service on the board shall cease December 31,
18 2008.

19 2. **Except as provided in this subsection**, participation in such plan
20 shall be by a specific written agreement between state employees and the state,
21 which shall provide for the deferral of such amounts of compensation as requested
22 by the employee subject to any limitations imposed under federal
23 law. Participating employees must authorize that such deferrals be made from
24 their wages for the purpose of participation in such program. **An election to**
25 **defer compensation shall be made before the beginning of the month in**
26 **which the compensation is paid. Contributions shall be made for**
27 **payroll periods occurring on or after the first day of the month after**
28 **the election is made. Each employee eligible to participate in the plan**
29 **hired on or after July 1, 2012, shall be enrolled in the plan**
30 **automatically and his or her employer shall, in accordance with the**
31 **plan document, withhold and contribute to the plan an amount equal**
32 **to one percent of eligible compensation received on and after the date**
33 **of hire, unless the employee elects not to participate in the plan within**
34 **the first thirty days of employment, and in that event, any amounts**
35 **contributed and earnings thereon will be refunded by the plan to the**
36 **employee pursuant to the procedure contained in the plan**
37 **documents. Employees who are employed by a state college or**
38 **university shall not be automatically enrolled but may elect to**
39 **participate in the plan and make contributions in accordance with the**
40 **terms of the plan. Employees who are enrolled automatically may elect**
41 **to change the contribution rate in accordance with the terms of the**
42 **plan. Employees who elect not to participate in the plan may at a later**
43 **date elect to participate in the plan and make contributions in**
44 **accordance with the terms of the plan.** All assets and income of such fund
45 shall be held in trust by the board for the exclusive benefit of participants and
46 their beneficiaries. Assets of such trust, **and the trust established pursuant**
47 **to section 105.927**, may be pooled solely for investment management purposes
48 with assets of the trust established under section 104.320.

49 3. Notwithstanding any other provision of sections 105.900 to 105.927,

50 funds held for the state by the board in accordance with written deferred
51 compensation agreements between the state and participating employees may be
52 invested in such investments as are deemed appropriate by the board. All
53 administrative costs of the program described in this section, including staffing
54 and overhead expenses, may be paid out of assets of the fund, which may reduce
55 the amount due participants in the fund. Such investments shall not be
56 construed to be a prohibited use of the general assets of the state.

57 4. Investments offered under the deferred compensation fund for the
58 employees of the state of Missouri shall be made available at the discretion of the
59 board.

60 5. The board and employees of the Missouri state employees' retirement
61 system shall be immune from suit and shall not be subject to any claim or
62 liability associated with any administrative actions or decisions made by the
63 commission with regard to the deferred compensation program prior to the
64 transfer made to the board under section 105.910.

65 6. The board and employees of the system shall not be liable for the
66 investment decisions made or not made by participating employees as long as the
67 board acts with the same skill, prudence, and diligence in the selection and
68 monitoring of providers of investment products, education, advice, or any default
69 investment option, under the circumstances then prevailing that a prudent person
70 acting in a similar capacity and familiar with those matters would use in the
71 conduct of a similar enterprise with similar aims.

72 7. The system shall be immune from suit and shall not be subject to any
73 claim or liability associated with the administration of the deferred compensation
74 fund by the board and employees of the system.

75 8. **Beginning on or after September 1, 2011, if a participant under**
76 **the deferred compensation plan or the plan established under section**
77 **105.927 is married on the date of his or her death, the participant's**
78 **surviving spouse shall be automatically designated as the primary**
79 **beneficiary under both plans, unless the surviving spouse consented in**
80 **writing, witnessed by a notary public, to allow the participant to**
81 **designate a nonspouse beneficiary. As used in this subsection,**
82 **"surviving spouse" means the spouse as defined pursuant to section**
83 **104.012 to whom the participant is lawfully married on the date of**
84 **death of the participant, provided that a former spouse shall be treated**
85 **as the surviving spouse of the participant to the extent provided under**

86 a judgment, decree, or order that relates to child support, alimony
87 payments, or marital property rights made under Missouri domestic
88 relations law that creates or recognizes the existence of such former
89 spouse's right to receive all or a portion expressed as a stated dollar
90 amount or specific percentage stated in integers of the benefits payable
91 from such plan upon the death of the participant. This subsection shall
92 not apply to beneficiary designations made prior to September 1, 2011.

93 9. The board may adopt and amend plan documents to change
94 the terms and conditions of the deferred compensation plan and the
95 plan established under section 105.927 that are consistent with federal
96 law.

105.927. [1.] The treasurer of the state of Missouri shall credit an
2 amount not to exceed seventy-five dollars per month, to a plan established
3 pursuant to the provisions of the Internal Revenue Code Section 401(a) for each
4 [qualified] participant in the state's deferred compensation program; provided
5 that funds to be credited to each [qualified] participant's account shall not exceed
6 the amount appropriated by the general assembly for each [qualified]
7 participant. **Such funds may be credited to each participant directly by**
8 **a state agency if that agency's payroll is not issued through the**
9 **treasurer of the state of Missouri.** Funds so credited shall be held,
10 administered and invested as provided in sections 105.900 to 105.925 and the
11 plan document adopted for the administration of such contributions.

12 [2. For purposes of this section, "qualified participant" means an employee
13 of the state of Missouri who is making continuous deferrals of at least twenty-five
14 dollars per month to the deferred compensation program and has been an
15 employee of the state of Missouri for at least twelve consecutive months
16 immediately preceding the commencement of any amount credited pursuant to
17 this section. The amount credited on behalf of a qualified participant pursuant
18 to this section shall not exceed the amount that the qualified participant
19 contributes to his or her deferred compensation plan.]

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